

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

THE PEOPLE OF THE STATE OF NEW YORK, by  
LETITIA JAMES, Attorney General of the State of  
New York,

Plaintiff,

v.

CITIBANK, N.A.,

Defendant.

Case No. 24 Civ. 0659 (JPO)

**MOTION TO WITHDRAW CONSUMER FINANCIAL PROTECTION BUREAU'S  
STATEMENT OF INTEREST**

The Consumer Financial Protection Bureau moves to withdraw the Statement of Interest in Support of Plaintiff that it filed on May 28, 2024, ECF 28-1. The Bureau has conferred with counsel for the parties. Citibank consents to the Bureau's motion, while New York takes no position at this time. In support of this motion, the Bureau states the following:

1. The Statement of Interest the Bureau filed in this matter advances an interpretation of the Electronic Funds Transfer Act (EFTA) that has never been embraced by any federal court prior to this case. The Statement asserts that the EFTA can be applied to online-initiated transactions that include a wire transfer despite the exclusion found in the EFTA, 15 U.S.C. § 1693a(7)(B), despite the exclusion found in the Bureau's own Regulation E, 12 C.F.R. § 1005.3(c)(3), and despite the fact that wire transfers have long been regulated by Article 4-A of the UCC, *see, e.g., Levin v. JPMorgan Chase Bank, N.A.*, 751 F. App'x 143, 147 (2d Cir. 2018). The interpretation has never previously been articulated by the Bureau or by the Federal Reserve, which administered Regulation E before that responsibility was transferred to the Bureau.

2. The Bureau has concluded that the filing of this Statement of Interest was inappropriate. The Statement represents an unsuitable method of advancing a novel and significant interpretation of the EFTA that could impose significant liability on regulated parties without fair notice.
3. In Regulation E, the Bureau has enacted a comprehensive regulatory regime regarding the scope of the EFTA. The Statement of Interest upended the long-held understanding of Regulation E without notice and comment. Worse, by adopting this position in a “Statement of Interest” in a proceeding in which it is not even a party, the Bureau insulated this novel position from judicial review under the Administrative Procedure Act’s arbitrary and capricious standard. In doing so, the Bureau’s unprecedented interpretation was not informed by the process for legislative rulemaking defined in the APA. Instead, the Bureau announced a significant new interpretation that alters rights and obligations through a filing in a suit in which the Bureau is not even a party.
4. In light of these significant concerns, the Bureau disclaims the position advanced in the Statement of Interest and takes no position on this matter. Accordingly, the Bureau respectfully moves for the withdrawal of the Statement of Interest and does not intend to participate in this case any further.

March 25, 2025

Respectfully submitted,

Mark Paoletta  
*Chief Legal Officer*  
Daniel Shapiro  
*Deputy Chief Legal Officer*  
Steven Y. Bressler  
*Deputy General Counsel*  
Christopher J. Deal  
*Assistant General Counsel*

/s/ Andrea J. Matthews

Andrea J. Matthews (MA #694538)

*Senior Counsel*

Consumer Financial Protection  
Bureau

1700 G Street, NW

Washington, D.C. 20552

(202) 407-2324

andrea.matthews@cfpb.gov